

CHAPTER 445

COURTS

HOUSE BILL 22-1272

BY REPRESENTATIVE(S) Gonzales-Gutierrez and Benavidez, Bird, Jodeh, Kennedy, Kipp, Lindsay, Snyder, Garnett, Bacon, Esgar, Exum, Herod, Ricks, Sirota;
also SENATOR(S) Gonzales and Rodriguez, Danielson, Jaquez Lewis, Fenberg.

AN ACT

CONCERNING THE REPEAL OF THE PROVISION AWARDING A DEFENDANT ATTORNEY FEES IN A TORT ACTION WHEN THE CASE IS DISMISSED ON MOTION OF THE DEFENDANT PRIOR TO TRIAL.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **amend** 13-17-201 as follows:

13-17-201. Award of reasonable attorney fees in certain cases. (1) In all actions brought as a result of a death or an injury to person or property occasioned by the tort of any other persons, where any such action is dismissed on motion of the defendant prior to trial under rule 12 (b) of the Colorado rules of civil procedure, such defendant shall have judgment for his reasonable attorney fees in defending the action. This ~~section~~ SUBSECTION (1) ~~shall~~ DOES not apply if a motion under rule 12 (b) of the Colorado rules of civil procedure is treated as a motion for summary judgment and disposed of as provided in rule 56 of the Colorado rules of civil procedure.

(2) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO ANY CLAIM THAT IS A GOOD FAITH, NON-FRIVOLOUS CLAIM FILED FOR THE EXPRESS PURPOSE OF EXTENDING, LIMITING, MODIFYING, OR REVERSING EXISTING PRECEDENT, LAW, OR REGULATION; OR FOR THE EXPRESS PURPOSE OF ESTABLISHING THE MEANING, LAWFULNESS, OR CONSTITUTIONALITY OF A LAW, REGULATION, OR UNITED STATES OR STATE CONSTITUTIONAL RIGHT AND THE MEANING, LAWFULNESS, OR CONSTITUTIONALITY HAS NOT BEEN DETERMINED BY THE COLORADO SUPREME COURT, OR FOR CASES PRESENTING QUESTIONS UNDER THE UNITED STATES CONSTITUTION, TO THE SUPREME COURT OF THE UNITED STATES. THIS SUBSECTION (2) APPLIES SO LONG AS THE PARTY THAT BROUGHT THE DISMISSED CLAIM HAS PLEADED, IN ITS COMPLAINT, COUNTERCLAIM, OR CROSS CLAIM, THAT THE DISMISSED

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

CLAIM WAS MADE FOR ONE OF THE EXPRESS PURPOSES STATED IN THIS SUBSECTION (2) AND IDENTIFIED THE PRECEDENT, LAW, OR REGULATION THE PARTY SEEKS TO EXTEND, LIMIT, MODIFY, OR REVERSE, OR WHETHER THE ISSUE TO BE DECIDED IS A MATTER OF FIRST IMPRESSION.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 8, 2022